

PUBLIC ORDER EMERGENCY COMMISSION

IN THE MATTER OF AN INQUIRY

held pursuant to section 63 of the *Emergencies Act*, R.S.C., 1985, c. 22

Affidavit of Anne Ménard

I, Anne Ménard, of the Cantley area in the province of Quebec, affirm as follows:

1. I am the Vice-President of the Capital Stewardship Branch at the National Capital Commission (NCC).
2. At the request of the Public Order Emergency Commission, the NCC has prepared an Institutional Report, attached as Exhibit A.
3. As the Vice-President, I have knowledge of the topics discussed in the Institutional Report for the NCC, namely, the organizational structure, responsibilities and powers of the NCC and the role played by the NCC with respect to the 2022 "Freedom Convoy". I affirm that the contents of the Institutional Report are true and accurate.

Affirmed before me at the City of Ottawa,
in the Province of Ontario, this 11th day of
October, 2022


A Commissioner for Taking Affidavits
Tina Isabelle Rollin, Notary Public,
LSO no. 50525W

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Anne Ménard

PUBLIC ORDER EMERGENCY COMMISSION
INSTITUTIONAL REPORT – NATIONAL CAPITAL COMMISSION

1.0 DEPARTMENT OVERVIEW

A. NCC's Organizational and Reporting Structure

1. The National Capital Commission (the "NCC") is a federal Crown corporation created by Canada's Parliament in 1959 under the *National Capital Act*¹ (the "NCA"). Pursuant to the NCA, "The objects and purposes of the Commission are to prepare plans for and assist in the development, conservation and improvement of the National Capital Region in order that the nature and character of the seat of the Government of Canada may be in accordance with its national significance".²
2. The NCC is the largest landowner in the National Capital Region³ (the "NCR"), is the long-term planner of the Capital, and cares for and protects vital public places that are unique to our nation's symbolic, natural and cultural heritage. As steward of these holdings, the NCC manages Gatineau Park, the Greenbelt, the Rideau Canal Skateway, urban lands and parks such as Confederation Park, pathways, scenic parkways, real property and heritage buildings, agricultural and research facilities, and commemorative monuments. It is also the custodian of the six official residences in the NCR.
3. The NCC board of directors consists of a Chairperson, a Chief Executive Officer (CEO) and 13 other members from the NCR and other parts of the country. Currently, seven members of the board are from the NCR (including the Chair and CEO), while the remaining eight members are from other parts of Canada.⁴ The mayors of the cities of Ottawa and Gatineau are also participants in all board meetings, on an ex-officio, non-voting basis.
4. The NCC is subject to the accountability regime set out in Part X of the *Financial Administration Act*. The NCC reports to Parliament through the Minister of Public Services and Procurement, who is designated as minister responsible for the NCA (currently the Honourable Filomena Tassi).⁵

¹ *National Capital Act*, R.S.C., 1985, c. N-4 ("NCA").

² NCA, s 10(1).

³ Pursuant to section 2 of the NCA, the "National Capital Region" refers the seat of the Government of Canada and its surrounding area, more particularly described in the schedule.

⁴ NCA, s 3.

⁵ Order Designating the Minister of Public Works and Government Services as the Minister for the purposes of that Act (SI/2019-116)

5. The board of directors is responsible for the oversight and direction of the NCC's activities and assets. In its corporate oversight role, the board of directors plays an active part in setting and monitoring management direction. The CEO is accountable to the board of directors for the management of the NCC's activities and the implementation of the board's strategic directions for each coming year.
6. The CEO is supported by an executive management team, which represents each of the nine branches of the NCC.⁶ Each vice-president is responsible for ensuring that the corporation's key sectors of activity are implemented and well managed. The vice-presidents are supported by directors, chiefs, managers and other employees. The NCC has approximately 480 employees.

B. NCC's role in controlling access to its property and enforcing applicable legislation

7. The NCC is the largest landowner in the NCR, approximately 10 to 11% of the NCR is under the management and control of the NCC.⁷
8. Pursuant to section 10(2) of the *NCA*, the NCC may:
 - (a) acquire, hold, administer or develop property;
 - (b) sell, grant, convey, lease or otherwise dispose of or make available to any person any property, subject to such conditions and limitations as it considers necessary or desirable;
 - (c) construct, maintain and operate parks, squares, highways, parkways, bridges, buildings and any other works.
9. The NCC lands open to the public⁸ are generally for public use (e.g. physical activity, sightseeing). In the event that someone wants to have an organized event in a park (e.g. Jazz festival), an Event Permit is required and specific obligations and guidelines must be respected as part of that permit. People using NCC Land must also comply with the applicable legislations including the *National Capital Commission Traffic and Property Regulations*⁹ (the "NCCTPR")¹⁰ and the *National Capital Commission Animal Regulations*.

⁶ Capital Planning; Capital Stewardship; Design and Construction; Real Estate and Development; Audit, Research, Evaluation and Ethics; Human Resources; Corporate Services; Public, Legal and Corporate Affairs; and Executive Office and Commission Secretariat.

⁷ NCC Properties Ownership Overview, map detailing NCC properties in the downtown core of Ottawa and Gatineau.

⁸ The NCC has a variety of properties in its portfolio: properties dedicated to the public such as parks, pathways, parkways, monuments, etc., conservation lands and commercial, residential and agricultural properties that are rented to third parties;

⁹ *National Capital Commission Traffic and Property Regulations*, C.R.C., c. 1044

¹⁰ (SOR/98-547) The Leamy Lake Navigation Channel connects the Gatineau River and Leamy Lake. The *Leamy Lake Navigation Channel Regulations* include rules governing entry into the channel, as well as prohibitions and obligations related to its use.

10. During the events being reviewed by the POEC, NCC had to limit access to its properties that are usually open to the public. The NCC relied mostly on fences, jersey barricades, and concrete planters filled with snow and ice, NCC conservation officers and private security firms to control access to some of its properties¹¹ located in downtown Ottawa and Gatineau.
11. The NCC, and its conservation officers (“COs”), have no direct authority to enforce regulations made by the Governor in Council pursuant to section 20(1) of the *NCA* for the protection of any property of the NCC and for preserving order or preventing accidents on any property of the NCC, such as the *National Capital Commission Traffic and Property Regulations*¹² (the “NCCTPR”), the *Leamy Lake Navigation Channel Regulations*¹³, and the *National Capital Commission Animal Regulations*.¹⁴
12. Since 1983, the NCC and the RCMP have signed Memorandums of Understanding (“MOUs”)¹⁵ to govern the appointment of NCC COs as supernumerary special constables and designated as peace officers for the limited purpose of enforcing the *Leamy Lake Navigation Channel Regulations*, the *National Capital Commission Animal Regulations*, and certain sections of the *NCCTPR*. The NCC must rely on this administrative arrangement with the RCMP in order to be able to enforce these regulations.

C. NCC’s enforcement powers

1. *Trespass to Property Act*¹⁶

13. The NCC has no enforcement authority with respect to the Ontario *Trespass to Property Act* other than what is given to any other occupier. The NCC relies on the Ottawa Police Service (“OPS”), pursuant to section 9 of the *TPA*, to enforce all aspects of provincial legislation, including arresting any person that does not leave the premises immediately after they are directed to do so by a person authorized by the NCC. While the *TPA* technically allows an occupier to arrest individuals, the NCC does not have tools or infrastructure to do so.

¹¹ Confederation Park, Lawrence Freiman Lane, Sir John A. Macdonald Parkway (SJAM), Sir George-Étienne Cartier Parkway (SGEC), Queen Elizabeth Driveway (QED), National Veteran Monument (the NCC shares ownership of lands around the NVM with PSPC and Parks Canada), Bronson Park, Garden of the Provinces, Jacques Cartier Park.

¹² *National Capital Commission Traffic and Property Regulations*, C.R.C., c. 1044

¹³ (SOR/98-547) The Leamy Lake Navigation Channel connects the Gatineau River and Leamy Lake. The *Leamy Lake Navigation Channel Regulations* include rules governing entry into the channel, as well as prohibitions and obligations related to its use.

¹⁴ (SOR/2002-164) The *National Capital Commission Animal Regulations* outline where domestic animals, including dogs, are allowed on NCC lands, as well as the rules that their owners must follow on these lands.

¹⁵ Memorandum of Understanding between the Royal Canadian Mounted Police and the National Capital Commission (April 19, 2021), in effect during the period at issue.

¹⁶ *Trespass to Property Act*, R.S.O. 1990, c. T.21

2. National Capital Commission Traffic and Property Regulations

14. Pursuant to the MOU between the NCC and the RCMP, any NCC CO appointed supernumerary as a special constable and designated as a peace officer is authorized to enforce subsection 4(2) and sections 6 (exclusively for parking-related offences), 7, 9, 10, 13, 14, and 16 to 21 of Part I and all sections of Part II of the *NCCTPR*. The enforcement of parking-related offences under section 6 of the *NCCTPR* is the shared responsibility of the NCC and the RCMP. However, in practice the RCMP manages traffic enforcement on NCC owned roadways, and the NCC COs manage parking tickets in NCC properties.

3. Other Enforcement Powers

15. Pursuant to the MOU with the RCMP, the NCC is also authorized to enforce the *Leamy Lake Navigation Channel Regulations* and the *National Capital Commission Animal Regulations*. The NCC COs are also authorized to enforce certain federal and provincial legislations, including the *Small Vessel Regulations*¹⁷ and the *Quebec Act Respecting Threatened or Vulnerable Species*.¹⁸ The enforcement power is specifically designated through legislation or by ministerial authority to designate enforcement powers.¹⁹ These powers are connected to the NCC's responsibility for patrolling and monitoring the natural and conservation lands owned by the NCC, including Gatineau Park and the National Capital Greenbelt.

D. Role, Responsibilities, and Powers of Conservation Officers

16. The NCC CO team is composed of 15 members,²⁰ with an additional 4 parking officers hired during the summer. During winter, the NCC COs generally work from 7 a.m. to 7 p.m., with 2 COs on standby during the night. Generally, there are between 3 and 6 COs on patrol on any given day.
17. The NCC COs patrol and monitor NCC properties to ensure compliance with the regulations made pursuant to the *National Capital Act*, including the *NCCTPR*, the *National Capital Commission Animal Regulations* and the *Leamy Lake Navigation Channel Regulations* as well as other federal or provincial laws. The NCC COs also provide public assistance by participating in search and rescue, by managing wildlife, and participating in the initial attack on small/minor forest firefighting operations. The NCC COs may assist NCC portfolio

¹⁷ SOR/2010-91.

¹⁸ Act Respecting Threatened or Vulnerable Species, CQLR, c E-12.01.

¹⁹ COs are also responsible for enforcing the following legislation: the *Vessel Operation Restriction Regulations* (SOR/2008-120), the *Small Vessel Regulations* (SOR/2010-91), the *Competency of Operators of Pleasure Craft Regulations* (SOR/99-53), the *Fisheries Act* (R.S.C., 1985, c. F-14), the *Ontario Fishery Regulations, 2007* (SOR/2007-237), the *Quebec Fishery Regulations, 1990* (SOR/90-214), the *Act respecting threatened or vulnerable species*, (CQLR, chapter e-12.01), the *Regulation respecting threatened or vulnerable plant species and their habitats*, and the *Act respecting threatened or vulnerable species* (CQLR chapter E-12.01, ss. 10, 16, 17 and 39).

²⁰ The NCC CO team consists of 1 manager, 8 senior conservation officers, 3 conservation officers, 3 junior officers.

managers on matters related to natural resources by gathering, researching, and presenting data.

18. Pursuant to the MOU with the RCMP, NCC COs are not police officers and are unarmed. The only tools an NCC CO may carry are, in accordance with the principle of necessary use of force, in the performance of his or her duties, oleoresin capsicum (OC) spray (pepper spray) and a defensive baton after successfully completing the required training and/or recertification. Some NCC COs may use a shotgun or a rifle in the performance of their duties for the sole purpose of managing and controlling animals and wildlife.²¹
19. The NCC COs patrol and monitor NCC properties and only have jurisdiction within NCC properties, as described above. The NCC COs request assistance from the municipal police agency of jurisdiction when required, including when a criminal offence is being, will be, or has been committed, and when an individual fails to identify themselves when required, is resisting, or being non-cooperative with NCC CO legal demands.
20. Depending on the location, the following law enforcement agencies have responsibility for all policing matters including the investigation of municipal, provincial, and criminal offences located within NCC properties within their jurisdiction:
 - Ottawa Police Service (responsible for NCC properties located in Ottawa); and
 - Service de police de la Ville de Gatineau (responsible for NCC properties located in Gatineau); and
 - Service de la sécurité publique de la MRC des Collines-de-l'Outaouais (including Chelsea, La Pêche, and Pontiac).
21. The RCMP has the jurisdiction to enforce traffic regulations on NCC properties, in accordance with the *NCCTPR*. The RCMP may also enforce the *Leamy Lake Navigation Channel Regulations* and the *National Capital Commission Animal Regulations*, and any other legislation within their authorities.

2.0 NCC ACTIVITIES DURING THE CONVOY

A. Overview

22. From the outset of the Convoy, the NCC understood that the Ottawa Police Service was the lead police agency and would have overall command of enforcement during the event through the National Capital Region Command Centre (NCRCC). This was confirmed during an OPS press briefing on January 28, 2022 and communicated to the NCC.²² While the NCC

²¹ see sections 6.6 and 6.7 of the MOU

²² "FW: Planned Truck Demonstration – Slowdown and Impacts Planned for Ottawa – 21 Jan 2022", email chain dated January 21, 2022 (PB.CAN.00000070_REL); "RE: Update on Planned Truck Demonstration starting on 28 January in Ottawa", email chain dated January 26, 2022 (PB.CAN.00000075_REL).

was not a member of this NCRCC, a PSPC representative attended NCRCC meetings and was liaising with the NCC.

23. During the Convoy, the role of NCC COs was limited to monitoring activities on NCC properties. Due to the small size of the CO team relative to scope and scale of the protests, the NCC instructed COs to maintain a monitoring role, and instructed COs to remove themselves and seek assistance from either the RCMP or municipal police services if they ever felt threatened or believed a situation had the potential to escalate. While the NCC sought assistance from the OPS on an organizational level, during the Convoy, NCC COs did not ask OPS directly for assistance.
24. Many of the NCC's properties were impacted during the Convoy. NCC roadways were used to store vehicles, and in particular, Confederation Park and Lawrence Freiman Lane was the site of a significant ongoing occupation from January 28 until February 6, 2022.
25. The NCC, through its contractors, is also responsible for maintenance along the sidewalks on Wellington Street, and at many government sites on Wellington. In particular, the NCC is responsible for the snow and ice removal that ensures safe access to Parliament Hill, the Supreme Court of Canada, and other key federal government buildings. The NCC's ability to access and maintain these sites was severely impacted throughout the duration of the Convoy. This resulted in unsafe conditions, which limited access to these buildings.

B. Impacted Properties²³

26. The following NCC sites were particularly affected during the Convoy:
 - a. **Confederation Park and Lawrence Freiman Lane.** This site was occupied by overnight campers from January 28 to February 6, 2022. On February 3, 2022, protesters constructed a wooden building on Freiman Lane, and the park was used at various times to store a significant number of diesel and propane canisters. Following the departure of protesters on February 6, 2022, the NCC formally closed the park, and erected fences and used physical barriers to prevent public access. The NCC and its contractors maintained 24-hour patrols of the park until reopening on March 1, 2022.
 - b. **Sir John A. Macdonald Parkway ("SJAM").** The SJAM was used as overflow parking for trucks from January 28 until February 19, 2022, with a peak volume between January 31 and February 1, 2022. There were still vehicles parked on the eastern end of the SJAM, on the section owned by the City of Ottawa, on February 19, 2022. There was significant traffic disruption, noise disturbance, idling, and air pollution.

²³ NCC Properties Ownership Overview, map detailing the location of the affected NCC properties.

- c. **Sir George-Étienne Cartier Parkway (“SGEC”).** The SGEC was used by OPS from January 28, 2022 until February 19, 2022. Traffic on SGEC was mostly impacted by intermittent closures between January 28 and February 4, 2022. SGEC was available to OPS but was not used as truck parking.
- d. **Queen Elizabeth Driveway (“QED”).** The QED was used as overflow parking for trucks from January 28 until February 3, 2022.
- e. **The National War Memorial (“NWM”).** The NCC shares ownership of the lands around the NWM with PSPC and Parks Canada. The area surrounding the monument was occupied from January 28 to February 19, 2022.
- f. **Bronson Outlook.** Bronson Outlook was occupied from January 28 to February 3, 2022. After protesters vacated on February 3, the NCC blocked access to Bronson Outlook and erected fencing. COs continued to monitor and patrol the site.
- g. **Garden of the Provinces.** Garden of the Provinces was occupied from January 28 to February 3, 2022. After protesters vacated on February 3, the NCC blocked access to the Garden of the Provinces and erected fencing. COs continued to monitor and patrol the site.
- h. **Portage Bridge.** Portage Bridge was closed by the OPS to non-emergency vehicles from January 28 to February 19, 2022.

27. The following NCC properties were also impacted by the Convoy:

- a. **Jacques Cartier Park (Gatineau, Québec).** The marina parking lot at Jacques Cartier Park was the location of a small occupation, including illegal overnight parking, from January 28 until February 9, 2022.
- b. **Major’s Hill Park.** Major’s Hill Park was the site of demonstrations and was also used by protesters to cross from Quebec to Wellington Street.²⁴ The park was the site of elevated protest activity on February 12, 2022.
- c. **Rideau Canal Skateway.** The NCC is responsible for maintaining the Rideau Canal Skateway. During the Convoy, small groups of protesters were intermittently on the Skateway, and there were altercations between protesters and members of the public and contractor employees.

²⁴ “Re: Preparation – Event in Major’s Hill – Saturday Feb 12 @ 11 am”, email chain dated February 12, 2022 (PB.CAN.00000334_REL)

C. NCC's Role in Managing Convoy Events outside of Confederation Park and Requests for Assistance

28. The NCC collaborated with OPS from the days leading to the arrival of the Convoy in the capital and throughout the occupation and blockades. The NCC received intelligence shared by the OPS either directly or via INTERSECT. The NCC also advised the OPS when the organization was contacted about the request from protesters, and subsequent refusal, to use Confederation Park as a staging area.
29. Prior to January 28, 2022, the NCC had little information about the incoming protest, other than what was in the media and what was shared by Intersect. The NCC knew that OPS was unable to estimate the number of trucks and participants but that OPS planned to use SJAM SGEC and QED to park the potential overflows of trucks. The NCC also knew that a protester requested to use Confederation Park as mentioned above.
30. On January 28, 2022, Ian Grabina, NCC Land Manager, met with the OPS Liaison team to clarify jurisdictional oversight for NCC lands, in particular in Confederation Park and the surrounding area.²⁵ In this conversation, Mr. Grabina explained that the NCC was relying on OPS officers to provide policing support to the NCC to address issues that were unfolding on NCC lands. Individuals using NCC properties are subject to municipal by-laws and provincial regulations that are applicable on federal lands, which in Ottawa, are enforced by Ottawa By-Law, Fire Department and OPS. As such, the NCC was subsequently able to obtain NCRCC and OPS support in addressing issues arising on NCC properties.
31. After the arrival of the Convoy, NCC staff met regularly, often daily, with PSPC, OPS, RCMP and City of Ottawa staff throughout the protest, including those located in the NCRCC. These meetings both scheduled and ad hoc, aimed to address both ongoing and imminent operational concerns on both NCC and surrounding PSPC or City of Ottawa lands.
32. Starting on January 27, 2022, the NCC participated in daily meetings with the PSPC Departmental Emergency Operations Centre ("DEOC"). Starting on February 1, 2022, these meetings increased to twice daily. DEOC provided information from NCRCC to federal land management and operations partners, including the NCC, shared information between federal partners, and facilitated the sharing of equipment and expertise between federal partners.
33. The arrival of the Convoy saw the escalation of safety and security concerns on NCC properties, which required the NCC to reach out to law enforcement and the City of Ottawa for assistance in managing these issues. Below is an overview of the major incidents experienced by and activities engaged in by the NCC on its properties other than Confederation Park:

²⁵ "Re: Truck convoy – CO responsibilities", email chain dated January 25 – 29, 2022 (PB.CAN.00000113_REL).

1. Use and Protection of NCC Parkways

34. On January 27, 2022, the NCC agreed to a request from the OPS, granting the OPS permission to use NCC Parkways for the temporary management of inbound trucks during weekends where there was an influx of Convoy vehicles heading into to downtown area, as the OPS required an overflow area to store vehicles.²⁶ The agreement between the NCC and the OPS on overflow vehicle parking was not in writing.
35. The agreement allowed OPS to use NCC parkways if OPS managed the vehicles and their impacts. The agreement also confirmed that vehicles could not be parked on the bridges or overpasses, due to structural risks that would be caused by the weight of the vehicles. The specified NCC infrastructure was not designed to support heavy vehicles and risked significant damage if used by the Convoy. In particular, the bridges are not designed to today's standards and are only able to support roughly ½ the weight required by modern building codes (32 tonnes vs 65 tonnes).²⁷
36. The NCC was also concerned about potential damage that could be done to the Sir John A Macdonald (SJAM) Parkway because of large commercial vehicles.²⁸ Commercial vehicles are not permitted to use the SJAM, as the design of the parkway is vulnerable to heavy weights. On January 30, 2022, Ian Grabina, Land Manager, asked whether the RCMP could provide assistance to the OPS in regards to trucks parking on the overpasses along the SJAM.²⁹ On that same day, the RCMP quickly responded and stated that they did not have the resources to assist at that time. The NCC then informed the OPS that the RCMP did not have the resources to assist.³⁰
37. On January 31, 2022, Mr. Grabina also met with the City of Ottawa to discuss the re-opening of QED, where some trucks had been parked when the downtown area became full, to public traffic as there were significant NCC concerns relating to protest vehicles parked on QED in front of residential properties, in particular regarding 24-hour noise pollution, air pollution from idling vehicles, limited access to area for NCC maintenance contractors, and limited emergency vehicle access. The Convoy vehicles on the QED also impacted the Rideau Skateway user experience.

²⁶ "FW: SJAM/ SGEC/ Aviation parkway closures", email chain dated January 27, 2022 (PB.CAN.00000077_REL).

²⁷ "Re: Trucker Convoy- message to organizers requested", email chain dated January 24 – 25, 2022 (PB.CAN.00000073_REL)

²⁸ "Re: Trucker Convoy- message to organizers requested", email chain dated January 24 – 25, 2022 (PB.CAN.00000073_REL)

²⁹ "FW: Protest – global update", email chain dated January 29 – 30, 2022 (PB.CAN.00000125_REL)

³⁰ "FW: RCMP assistance on SJAM & SGEC – parked trucks", email chain dated January 29 – 30, 2022 (PB.CAN.00000136_REL)

38. From January 28 to February 3, 2022, the OPS negotiated and dealt with the vehicles on the QED. By February 3, most vehicles were redirected to the Coventry site. The NCC blocked access to that section of QED by installing barricades on connecting streets, installing concrete planters filled with snow to block the QED south-bound at Fifth Avenue and north-bound at Somerset, and contracting a private security company to patrol the area around the clock to prevent protesters returning or accessing Confederation Park from that direction.
39. On February 11, 2022, Mr. Grabina met with OPS to discuss OPS's ongoing use of NCC Parkways pursuant to this arrangement.³¹ The OPS indicated that they would need to close the Sir John A. Macdonald (SJAM) and the Sir George-Étienne Cartier (SGEC) Parkways due to an influx of Convoy vehicles that were expected to arrive over the weekend of February 12-13, 2022.

2. Rideau Canal Skateway

40. The Rideau Canal National Historical Site is a UNESCO world heritage site managed by Parks Canada. The NCC is responsible for the management the Rideau Canal Skateway (the "Skateway") when operational. The Convoy event presented safety concerns to the public's use of the Skateway, and to the Skateway's staff.
41. In particular, on January 29, 2022, an injured skater was stuck on the ice, with a broken leg, in -20 degree Celsius weather for over 2 hours before an ambulance was able to reach them.³² There was not much the NCC could do within its jurisdiction to prevent such a situation attributable to the closing of the roads in downtown Ottawa causing difficulties for the emergency services to access that sector. Therefore, Mr. Grabina reached out to the OPS to flag this situation to ensure that emergency egress routes were maintained at all times. OPS then negotiated with the vehicle owners parked on QED to have them vacate the site on February 3, 2022. The NCC then closed QED to the vehicles from Fifth Avenue to Somerset and arranged for security guard to patrol that section.
42. In addition, Skateway concession staff reported being verbally harassed or assaulted by protesters for wearing masks. During the weekend of January 29-30, 2022, a BeaverTail employee reported being verbally harassed while walking to the bus station and another employee reported that a protester had taken off her protective mask.³³ During the weekend of February 5-6, 2022, a concession stand employee reported being assaulted and the OPS arrested the man who assaulted the Skateway staff member.³⁴

³¹ "RE: SJAM and SGE", email chain dated February 11, 2022 (PB.CAN.00000326_REL)

³² "RE: Updated plans for Confed Park", email chain dated January 29, 2022 (PB.CAN.00000103_REL)

³³ "Assault on a Skateway concession staff", email chain dated February 8, 2022 (PB.CAN.00000281_REL)

³⁴ "Assault on a Skateway concession staff", email chain dated February 8, 2022 (PB.CAN.00000281_REL)

43. In addition to the regular CO patrols on the ice during the Skateway season, from 12:00PM – 8:00PM, to ensure rules are followed (i.e. no dogs, no hockey) and to provide assistance during emergencies or injuries, the NCC COs were assigned to patrol more frequently following the above-mentioned events.

3. Other NCC Properties

44. The NCC fenced approximately 9 downtown properties or parkways over the course of the Convoy, and was required to conduct ongoing monitoring and security rounds. After Confederation Park had been cleared, the Convoy continued to present safety and security concerns to other NCC properties, security officers hired by the NCC, and NCC COs.
45. On February 7, 2022 the NCC received a report from a resident in Gatineau (sector Hull) that over the previous two weekends there had been a number of vehicles in the marina parking lot at Jacques-Cartier Park.³⁵ She reported that trucks had been there, with lawn chairs, BBQ activities, alcohol use etc. She also reported that she had seen people walking from the Park over the Alexandra Bridge with jerry cans, which she assumed had fuel. Finally, she also reported that someone had set up a camp in the park with a converted school bus. A subsequent complaint from the public about the activity in the park was received on the same day.
46. An NCC CO was tasked with attending the park and reviewing the situation. He reported that about a dozen vehicles were parked in the Marina parking lot. He also spoke with the owner of the bus and was able to have a respectful conversation. The owner of the bus stated he would leave the park the next day after he had collected his things. It was also noted on February 8, 2022 that some of the protesters had fires set in barrels.
47. On February 9, 2022, at 6 a.m., two NCC COs, with the assistance of the Service de police de la Ville de Gatineau, directed 5 vehicles, along with the occupants, to exit the parking lot. Four empty vehicles were also parked, but later left during that same day³⁶. Once the site was vacated, the NCC installed barricades at the entrance of the parking lot and planned for the site to be monitored by a private security firm. A security guard was needed to facilitate access by Canadian Museum of History employees.
48. The unprecedented closing of public lands negatively affected the public's access and enjoyment to these public sites. Due to their closure, the NCC was unable to conduct normal winter maintenance on its sites. The closures necessitated an extended period where the

³⁵ The Jacques Cartier Park Marina Parking is an NCC property located in Gatineau, Quebec, which was previously leased to the City of Gatineau, which is why it is referenced occasionally as a municipal parking lot. At the time of the Convoy, the parking lot was not leased to a third party.

³⁶ "RE: parking lot adjacent 210 Laurier", email chain dated February 7 – 9, 2022 (PB.CAN.00000295_REL)

public could not access the sites after the conclusion of the Convoy, as it took time to safely clear accumulated snow and ice without damaging the surrounding landscape.

4. Threats to Security Officers and NCC COs

49. On February 11, security officers from ARX, a company employed by the NCC provided road closure equipment and patrol service, reported that they were receiving death threats by telephone and insults over social media. In addition, protesters had threatened to vandalize the equipment being used to close the QED to vehicle traffic. It was reported to the NCC that ARX staff had concerns in regard to continuing their work due to these threats. The NCC therefore advised ARX to avoid placing themselves in any risky situations.³⁷
50. Similar incidents occurred to NCC COs which impeded the COs ability to monitor and manage incidents on NCC properties. For example, on February 12, 2022, CO Jason Pink arrived at the SJAM to check on the status of the Parkway. As he rounded a corner, a group of approximately 20 protesters started coming towards him. Therefore, CO Pink disengaged and left the area immediately.³⁸
51. Also on February 12, 2022, protesters swarmed CO Maxime Lortie while he was in his vehicle monitoring Major's Hill Park. The crowd raged and yelled and would not let him leave the park. He was required to turn on the lights and sirens on his vehicle in order to make room to leave. CO Lortie indicated that he would not go back to the area, as he had never feared for his safety as he did in that moment. This incident was reported by the NCC to the NCRCC. The OPS suggested that where the NCC required access to an area, they could coordinate with the OPS so that a group could go in together to manage any safety concerns. The NCC decided to pull COs out of the heavy-protest areas and advised that they should only re-enter as part of coordinated access with the OPS.³⁹

D. Confederation Park and Lawrence Freiman Lane

52. Confederation Park and Lawrence Freiman Lane ("Freiman Lane") were the location of an ongoing occupation from January 28 until February 6, 2022.

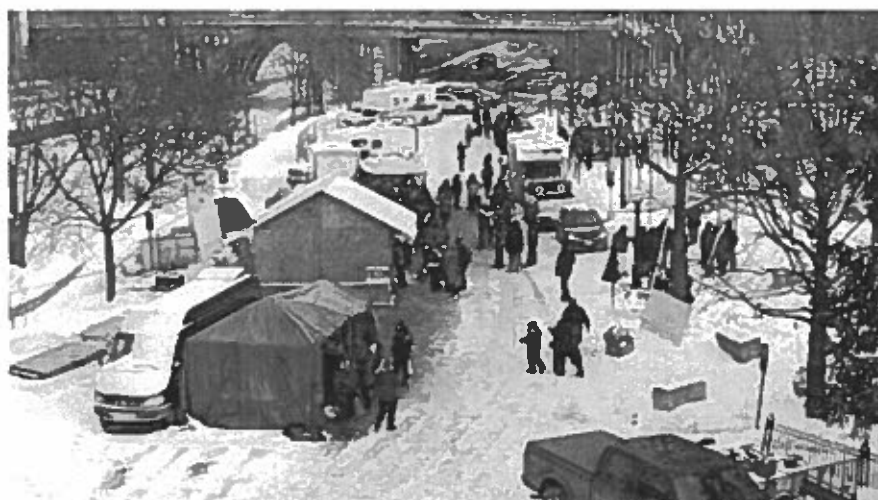
³⁷ "RE: menace envers ARX", email chain dated February 11, 2022 (PB.CAN.00000321_REL)

³⁸ "RE: Downtown update – 2pm Saturday Feb 12", email chain dated February 12, 2022 (PB.CAN.00000327_REL)

³⁹ "RE: Aggressive behaviour at Major's Hill Park", email chain dated February 9 – 12, 2022 (PB.CAN.00000333_REL)



Plan from Kevin Kennedy email dated 5 février 2022 13:37⁴⁰



The camp set up by the protesters in Confederation Park⁴¹

53. On January 24, 2022, NCC staff spoke on the phone with a person who initially presented himself as a volunteer of the Canada Unity group. During the conversation with this representative, the NCC indicated that Confederation Park would not be provided as a staging/event space/camping location for the protesters. The representative accepted this message and indicated he would pass it on to the group.⁴² The NCC then advised the OPS of this conversation.

⁴⁰ "RE: As requested", email dated February 5, 2022 (PB.CAN.00001510_REL)

⁴¹ PHOTO : RADIO-CANADA / ALEXANDER BEHNE

⁴² "Re: Call re: Canada Unity set-up in Confed Park", email dated January 24, 2022 (PB.CAN.00000257_REL)

54. On January 28, 2022, an NCC CO monitoring Confederation Park indicated that one vehicle with a camper was parked on Freiman Lane. The owner of the vehicle told the CO that protesters intended to use Confederation Park as a food distribution area and overnight gathering place, that protesters intended to use fires in barrels as warming stations, that thousands of protesters were expected overnight, and a sound engineer would be setting up music on the site. This individual also advised that the Six Nations planned to erect teepees in the park and indicated it was the protesters' intention to stay for months if necessary.⁴³
55. At 2:14 p.m., the NCC Emergency Line received a call from an OPS member reporting that a kitchen with propane tanks had been set up on Freiman Lane, and two NCC COs were dispatched to the site.⁴⁴ At 3:40 p.m., the NCC arranged over the phone for a private security firm, with whom the NCC was working, to be in place overnight along Freiman Lane. NCC instructed the security team to contact OPS to intervene for any unlawful activities. By 4:30 p.m., protest vehicles were parked along Freiman Lane, but the road was still passable. There were two controlled fires in drums/metals cans, and the rest of the park was largely vacant. Two OPS officers were onsite at Freiman Lane and indicated to NCC COs that they were not concerned about the fires and did not intend to intervene at that time.⁴⁵
56. At approximately 5:10 p.m., the NCC received a call from OPS dispatch asking COs to attend Confederation Park concerning the fires. OPS dispatch advised that the protesters had two more barrels now located under the QED overpass. OPS dispatch explained that OPS was contacting NCC to address this issue because of NCC's jurisdiction in the area.⁴⁶
57. On January 29, 2022, Confederation Park saw a significant increase in activity. For example fires were started, there were speeches, music, and a small crowd was gathering and some people were camping and vehicles were parked along Freiman Lane and area.⁴⁷ By 10:15 a.m., protesters had erected a tent, and a mobile kitchen was distributing food to growing crowds.⁴⁸ By 12:22, at least one truck and trailer was parked on the turf.⁴⁹
58. At 12:30 p.m., in an email to NCC COs, NCC staff involved in the core land management and the RCMP, Mr. Grabina reported that there was a group of protesters who were acting as a "pseudo-security force", but expressed concerns that as the afternoon progressed, the NCC would lose control of the situation at Confederation Park. The only vehicles which could

⁴³ "FW: potential rally at Confed Park", email dated January 28, 2022 (PB.CAN.00000097_REL)

⁴⁴ "RE: Bullets for case / Info pour le cas: 'CC-198138-W1K3C4' - Emergency line - Ottawa Police reporting tent and kitchens Confederation Park CRM:001859680", email chain dated January 28 – 29, 2022 (PB.CAN.00001508_REL)

⁴⁵ "FW: potential rally at Confed Park", email dated January 28, 2022 (PB.CAN.00000097_REL), "RE: Truck convoy – CO responsibilities", email dated January 28, 2022 (PB.CAN.00000113_REL)

⁴⁶ "RE: Truck convoy – CO responsibilities", email dated January 29, 2022 (PB.CAN.00000113_REL)

⁴⁷ "RE: Truck convoy – CO responsibilities", email dated January 29, 2022 (PB.CAN.00000107_REL)

⁴⁸ "RE: Truck convoy – CO responsibilities", email dated January 29, 2022 (PB.CAN.00000099_REL)

⁴⁹ "RE: Truck convoy – CO responsibilities", email dated January 29, 2022 (PB.CAN.00000099_REL)

access the park at this time were those which were already parked on Freiman Lane. At the time, Mr. Grabina understood that the OPS was taking a hands-off approach to avoid escalation.⁵⁰

59. By 4:45 p.m., NCC had finalized a plan with PSPC to install Jersey barriers overnight to discourage vehicles from entering the park.⁵¹ Later that evening, the City of Ottawa installed traffic control barriers at all pedestrian access points.
60. On January 30, 2022, the site was relatively calm in the morning, but as the day progressed, crowds increased with music and speeches. Protesters set up fires, hay bales, and more vehicles and campers throughout the part.
61. Typically, large demonstrations are managed by OPS and do not directly impact NCC lands. Normally there is a single protest organizer in contact with OPS to make sure the demonstration is safe and well managed. During these kinds of demonstration, the NCC CO's are normally present in the area to monitor the situation and report any criminal offenses, damage, or disturbance to OPS. However, the Convoy situation was different from most large-scale demonstrations the NCC is familiar with due the very large number of protesters, the use of vehicles to block the road network, the fact that there were many different groups involved with no specific leader, the number of different sites impacted, and the duration of the event. The NCC did not have the resources to manage such an extensive occupation of its lands and the surrounding areas.
62. On January 31, 2022, the encampment was growing. There were more people and more vehicles, and the protesters had brought in generators and bales of hay and displayed an intention to build structures in the park. A group which identified themselves as Indigenous gave a letter to a CO advising of their intention to set up an encampment at the park. Teepee poles were delivered but were never installed.
63. On February 1 and 2, 2022, the encampment continued to grow. Protesters gave speeches, and there was music and ceremonies taking place in the park. On the morning of February 1, 2022, the NCC received a copy of a letter from the Algonquin Anishinabeg Nation disavowing the current protests taking place in Confederation Park.⁵² On February 2, 2022, the NCC installed 10 additional concrete blocks in an attempt to further limit vehicle access to the park and Freiman Lane.

⁵⁰ "RE: Truck convoy – CO responsibilities", email dated January 29, 2022 (PB.CAN.00000099_REL)

⁵¹ "RE: Jersey Barriers (JB)" email chain dated January 29, 2022 (PB.CAN.00000117_REL)

⁵² "Press Release: The Algonquins of Pikwakanagan, the Algonquin Anishinabeg Nation Tribal Council and Kitigan Zibi Anishinabeg does not support the Truckers Convoy and the Confederation Park setup on the Algonquin Nation Lands/Territory" (PB.CAN.00000159_REL)

64. In the interim, on February 2, 2022, Anne Ménard, NCC's Vice President, Capital Stewardship Branch, sent an email to Ches Parsons, Commanding Officer, National Division, and Mitch Monette, Superintendent of RCMP Protective and Criminal Operations, National Division.⁵³ Ms. Ménard stated that given the escalation in violations to NCC properties, the NCC was seeking RCMP assistance to protect the NCC's assets. On February 3, 2022, Ivana Copelli, NCC Director, Strategic Planning, Branch Administration and Protection Services followed up to confirm that Ms. Menard's e-mail had been received and whether the RCMP would be in a position to assist the NCC.⁵⁴ While the NCC did not receive direct RCMP assistance for removal of protesters from NCC lands in response to this email, as the situation evolved, assistance was provided by law enforcement through the NCRCC.
65. On February 3, 2022, a group of protesters built a wooden shack on Lawrence Freiman Lane. The NCC does not permit the erection of buildings on NCC property without permission.



Construction of wooden shed at Confederation Park⁵⁵

66. Also on February 3, 2022, OPS provided NCC with images showing propane tanks and fuel containers were being stored on the site by protesters.

⁵³ "FW: RCMP assistance to protect federal assets", email dated February 2, 2022 (PB.CAN.00000171_REL)

⁵⁴ "FW: RCMP assistance to protect federal assets", email dated February 3, 2022 (PB.CAN.00000196_REL)

⁵⁵ Photo of shed (PB.CAN.00000181_REL)



Fuel canisters at Confederation Park⁵⁶

67. The NCC viewed the fuel storage as a significant risk to public safety. The NCC believed that having a fire inspector go to Confederation Park to look at the fuel would not be a sufficient response to the amount of fuel in question due to the size and behavior of the crowd.⁵⁷ At 4:00 p.m., OPS and an NCC CO asked the protesters to remove the fuel containers from the site, which the protesters did. However, by 6:00 p.m., the fuel containers were again back on site, and OPS and NCC CO again asked protesters to remove the fuel containers.⁵⁸

68. On the afternoon of February 3, Mr. Grabina sent an email request to the NCRCC that a removal plan be put in place for February 4, 2022 at 8:00 a.m.⁵⁹ As such, on the afternoon of February 3, 2022, Mr. Grabina e-mailed OPS requesting assistance with clearing Freiman

⁵⁶ Photo of fuel canisters (PB.CAN.00000182_REL)

⁵⁷ "FW: Hazardous material", email dated February 3, 2022 (PB.CAN.00000220_REL)

⁵⁸ "Re: Confederation Park 19:10", email chain dated February 3 - 4, 2022 (PB.CAN.00000207_REL)

⁵⁹ "RE: OPS Support – clearing of Confederation Park – Feb 4th AM" e-mail dated February 3, 2022 (PB.CAN.00000204_REL)

Lane, adjacent to Confederation Park, of all protesters and their vehicles.⁶⁰ This initial request to OPS was forwarded later that same day to the Incident Commander at the NCRCC.

69. Given the risks to public health and safety posed by the large cache of fuel onsite at Confederation Park, as well as the illegal wooden structure being built on site, Tobi Nussbaum, CEO of the NCC, also requested assistance directly to Former OPS Chief Peter Sloly via text message.⁶¹ The first message was sent on February 3, 2022 and the exchange continued, by text messages and phone calls through to February 5, 2022. These conversations related to the progress of removal of fuel canisters and a wooden structure on-site at Confederation Park. The messages from Former Chief Sloly indicated he was referring items to his staff.
70. On the evening of February 3, 2022, Former Chief Sloly and Mr. Nussbaum had a conversation over the phone where Former Chief Sloly committed to take action at Confederation Park the morning of February 4, 2022. No concrete plans were communicated to Mr. Nussbaum directly, although OPS staff had ongoing discussions during the weekend with the NCC staff present on the site, specifically Patrick Laliberté, Director, Ontario Urban Land and Greenbelt and Mathieu Brisson.
71. On February 4, 2022, Former Chief Sloly stated via email to his staff that he wanted to support the NCC's request for removal of the shed that same day by referencing Mr. Nussbaum's text message.⁶²
72. On the morning of February 4, 2022, OPS asked the NCC to be prepared to clean and fence the site in the event that the park was cleared during the day. Mr. Laliberté was the NCC's representative on site with NCC contractors, ready to assist with clean up as soon as the park was cleared of protesters.⁶³
73. On February 4, 2022, the OPS Liaison team made 3-4 attempts to negotiate with the protesters to have them vacate the site. In response to a request from the OPS, on February 4, 2022, the NCC provided an official letter authorizing the OPS to enforce all aspects of the *Trespass to Property Act*, in respect of illegal camping and parking in Confederation Park.⁶⁴ At 1:00 p.m., this letter was delivered by a member of the OPS Liaison Team to an unidentified protester at the encampment.

⁶⁰ "RE: OPS Support – clearing of Confederation Park – Feb 4th AM" e-mail dated February 3, 2022 (PB.CAN.00000185_REL)

⁶¹ Screenshot of text messages between Tobi Nussbaum and Peter Sloly (PB.CAN.00000175_REL), Screenshot of text messages between Tobi Nussbaum and Peter Sloly (PB.CAN.00000175_REL), Screenshot of text messages between Tobi Nussbaum and Peter Sloly (PB.CAN.00000225_REL).

⁶² "FW:[EXTERNAL]", email dated February 4, 2022 (PB.CAN.00000921_REL)

⁶³ "RE: Confederation Park 19:10", email dated February 4, 2022 (PB.CAN.00000209_REL)

⁶⁴ Letter from Tobi Nussbaum dated February 4, 2022 (PB.CAN.00000224_REL)

74. At 6:00 p.m. a delegation from Kitigan Zibi Anishinabeg (Algonquin) arrived at the Command Center at City Hall on Laurier to meet with representatives of the protesters. The Kitigan Zibi Anishinabeg delegation explained their community's position on the occupation of the park. The meeting lasted nearly 3 hours. The Kitigan Zibi Anishinabeg delegation asked the protesters to vacate the park. The NCC was not a participant in these discussions, however, the NCC understands that all negotiation attempts between OPS liaison team and Kitigan Zibi representative and protest leaders were unsuccessful that day. At the end of the meeting, the OPS liaison team informed Patrick Laliberté that the protesters refused to leave the site that day, and that no removal actions would be taking place that day.
75. On February 5, 2022, Kevin Kennedy from OPS contacts Patrick Laliberté to discuss another operation to clear the park.⁶⁵ The NCC collaborated with OPS in planning for the cleaning and later securing of the site once protesters vacated the park. The NCC informed OPS liaison team of Mr. Kennedy's plan, and later determined that no operation clearing operation would take place at that time. Later that evening at 7:47 p.m., the wooden shack was moved under Laurier Bridge by the protesters.⁶⁶ The National Aboriginal Veterans Monument (west of Confederation Park) and the Monument to Canadian Fallen (in Confederation Park) were also fenced to prevent any desecration or damage.
76. On February 6, 2022, the OPS liaison team again engaged in negotiations with protesters. These negotiations proved successful, and protesters began to vacate the site throughout the day. By 6:00 p.m., protesters had loaded the wooden shack onto a flatbed truck, and it was removed from the site. The rest of the protesters and their vehicles vacated the site shortly afterward. NCC staff were on site with a contractor to complete the clean up by removing debris, pallets, and other objects left behind by the protesters. Very little was left on site and almost no damage could be seen. Once the clean-up was completed, the NCC installed 2 jersey barriers to partially block Freiman Lane, making sure to leave emergency access to the National Arts Centre (NAC) open.

⁶⁵ "RE: As requested", email dated February 5, 2022 (PB.CAN.00001510_REL)

⁶⁶ "Feb 5: Protest Global Update 3", email dated February 5, 2022 (PB.CAN.00000235_REL)



Confederation Park and Freiman Lane after protesters departed⁶⁷

77. A security firm was hired to block that access with a guard in a car that could be moved by the guards to provide access to NAC when needed. Crowd control fences were installed around the perimeter of the park and the park was officially closed.⁶⁸ The guards parked at Freiman Lane were doing regular rounds in the park to make sure no gatherings, no illegal activities and encampments occurred.⁶⁹ The OPS was posted at City Hall on the other side of Laurier and were ready to intervene if the guards reported anything compromising the security of the park.
78. On February 9, 2022, the NCC installed signage to inform the public that the park was closed.⁷⁰ Also on February 9, three individuals attempted to enter the Park. Two COs intercepted these individuals and advised them that the park was closed. They refused to comply and jumped over the fencing into the park. OPS was called and arrived immediately to assist. The OPS was able to get the individuals to leave but the group was not cooperative.
79. No further protest action took place in Confederation Park. However, there was an ongoing threat that protest activity could recommence. If the protests continued in nearby areas of

⁶⁷ "Re: Confederation Park – Feb 6", email dated February 7, 2022 (PB.CAN.00000269_REL)

⁶⁸ "Re: Feb 6: Protest Global Update 1", email dated February 6, 2022 (PB.CAN.00000259_REL)

⁶⁹ "RE: Overnight security at Confederation park" email chain dated February 7, 2022 (PB.CAN.00000934_REL)

⁷⁰ "Re: Park closure signage Confed Park – 7am install Feb 9th", email chain dated February 8 – 12, 2022 (PB.CAN.00000328_REL)

Ottawa, the park was at risk of being occupied again. The NCC hired a security firm to conduct 24/7 surveillance of the park so that NCC COs could focus on reporting on the active hotspots at other NCC properties in the area.⁷¹ Confederation Park remained closed to the public until March 1, 2022.

⁷¹ "Re: Park closure signage Confed Park – 7am install Feb 9th", email chain dated February 11, 2022 (PB.CAN.00000331_REL)